

THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CIVIL CASE NO. 1:22-cv-00143-MR-WCM

REBECCA MICHELLE HAMRICK,)
individually and as a parent of her)
minor children A.H. and K.H.; and)
HALEY HARRISON,)
Plaintiffs,)
vs.)
RUTHERFORD COUNTY, a political)
subdivision of the State of North)
Carolina; JOHN K. CARROLL, in his)
individual capacity; KIMBER)
DOVER-JACKSON, in her individual)
capacity; and KELSEY FERGUSON,)
in her individual capacity,)
Defendants.)

ORDER

THIS MATTER is before the Court on the Defendants' Motion to Dismiss [Doc. 7] and the Magistrate Judge's Memorandum and Recommendation [Doc. 16] regarding the disposition of that motion.

Pursuant to 28 U.S.C. § 636(b) and the standing Orders of Designation of this Court, the Honorable W. Carleton Metcalf, United States Magistrate Judge, was designated to consider the above-referenced motion and to submit a recommendation for its disposition.

On March 24, 2023, the Magistrate Judge filed a Memorandum and Recommendation in this case containing conclusions of law in support of a recommendation regarding the pending motion. [Doc. 16]. The parties were advised that any objections to the Magistrate Judge's Memorandum and Recommendation were to be filed in writing within fourteen (14) days of service. The period within which to file objections has now expired, and no written objections to the Memorandum and Recommendation have been filed.

After a careful review of the Magistrate Judge's Recommendation, the Court finds that the proposed conclusions of law are consistent with current case law. Accordingly, the Court hereby accepts the Magistrate Judge's recommendation regarding the pending motion.

IT IS, THEREFORE, ORDERED that the Memorandum and Recommendation [Doc. 16] is **ACCEPTED**, and the Defendants' Motion to Dismiss [Doc. 7] is **GRANTED IN PART** and **DENIED IN PART** as follows:

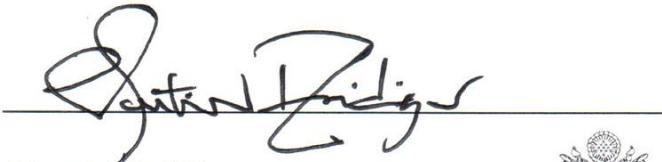
- (1) The Plaintiffs' claims against Defendant John K. Carroll are **DISMISSED WITH PREJUDICE** in their entirety;
- (2) The Plaintiffs' Section 1983 Monell claim against Rutherford County is **DISMISSED WITH PREJUDICE**;

(3) The Plaintiffs' claims of constructive fraud and under the North Carolina Constitution against Defendants Kimber Dover-Jackson and Kelsey Ferguson are **DISMISSED WITH PREJUDICE**; and

(4) In all other respects, the Defendants' Motion to Dismiss is **DENIED**, and the Plaintiffs' claims under Section 1983 and claims for negligence, negligent misrepresentation, negligent supervision, actual fraud, and civil obstruction of justice against Defendants Dover-Jackson and Ferguson shall be allowed to proceed.

IT IS SO ORDERED.

Signed: April 16, 2023



Martin Reidinger
Chief United States District Judge

